

Message Text

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TAGS: SREF, AR, BR

SUBJECT: ROMANIAN STOWAWAYS

REF: (A) SAO PAULO 2755; (B) 2 FAM 227, 228, AND 229;
(C) 74 STATE A-6610

1. REGRET DELAY IN REPLYING TO REFTEL A. DEPARTMENT
WOULD HAVE NO OBJECTION, IN PRINCIPLE, TO INTERVIEW AS
SUGGESTED BY UNHCR BETWEEN STOWAWAYS AND CONSULAR OF-
FICER. HO EVER, WE BELIEVE IT APPROPRIATE FOR SUCH AN
INTERVIEW TO TAKE PLACE AFTER ROMANIAN STOWAWAYS' STATUS
IN BRAZIL HAD BEEN DETERMINED SINCE CONSULAR INTERVIEW
WOULD ONLY PERTAIN TO POSSIBLE ADMISSION INTO U.S. UNDER
REGULAR IMMIGRANT VISA CHANNELS.

2. WE HAVE CONSISTENLY HELD THE OPINION THAT ASYLUM IS
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THE RIGHT AND RESPONSIBILITY OF THE COUNTRY IN WHICH THE

REQUEST IS MADE. THIS, THEN, IS ESSENTIALLY A ROMANIAN/
BRAZILIAN PROBLEM. BRAZIL HAS CERTAIN INTERNATIONAL
TREATY OBLIGATIONS CONCERNING THE TREATMENT OF REFUGEES
WHICH CANNOT BE OVERLOOKED. AN INDIVIDUAL'S DESIRE FOR
ADMISSION INTO THE U.S. DOES NOT TRANSFER RESPONSIBILITY
FOR SUCH A REFUGEE TO THE U.S. WHILE WE WOULD BE
SYMPATHETIC TO AN INDIVIDUAL'S DESIRE NOT TO RETURN TO A

COUNTRY WHERE HE WOULD FACE PERSECUTION, THE RESPONSIBILI-
TY FOR THE PROTECTION AGAINST THE FORCIBLE REPATRIATION
OF REFUGEES REST WITH THE UN HIGH COMMISSIONER FOR
REFUGEES (UNHCR).

3. AS PART OF UNHCR'S EFFORT TO OBTAIN THIRD COUNTRY
RESETTLEMENT, IT MAY BE POSSIBLE FOR THEM TO ENTER THE
U.S. AS CONDITIONAL ENTRANTS SINCE, AS ROMANIANS, THEY
APPEAR TO BE PRIMA FACIE ELIGIBLE TO APPLY FOR 7TH
PREFERENCE UNDER SECTION 203(A)(7) OF THE INA. HOWEVER,
IN ORDER FOR THEM TO APPLY FOR 7TH PREFERENCE CONDITIONAL
ENTRY, THEY WOULD HAVE TO PROCEED TO A POST WHERE INS
PROCESSES CONDITIONAL ENTRY APPLICATIONS SUCH AS ROME,
ATHENS, PARIS, FRANKFURT, VIENNA, AND BRUSSELS. THERE
ARE PRESENTLY NO PROCEDURES FOR PROCESSING CONDITIONAL
ENTRY APPLICATIONS IN THE WESTERN HEMISPHERE.

4. SINCE ONWARD REFERRAL TO CONDITIONAL ENTRY PROCESSING
POST DOES NOT GUARANTEE THAT SUCH AN APPLICATION WILL BE
APPROVED, UNHCR SHOULD DO EVERYTHING POSSIBLE IN ORDER
TO SECURE REFUGEE STATUS FOR POTENTIAL CONDITIONAL ENTRY
APPLICANTS IN THE COUNTRY OF FIRST ASYLUM. THEN, IF
INDIVIDUALS STILL DESIRE ADMISSION TO U.S. AND SUBSE-
QUENTLY APPLY FOR CONDITIONAL ENTRY, THEY WOULD HAVE A
COUNTRY OF REFUGE TO RETURN TO IF AN APPLICATION IS NOT
APPROVED.

5. LOCAL UNHCR REP SHOULD BE ADVISED OF OUR POSITION
AND ENCOURAGED TO CONTINUE HIS EFFORTS TO OBTAIN ASYLUM
FOR ROMANIAN STOWAWAYS IN BRAZIL. KISSINGER

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